IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 23518 of 2007(Y)

EP.57/2005 of SUB COURT, QUILANDY
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PETITIONER:

J.G.PRAKASAN, MEPPAYYUR AMSOM,
CHANGARAMVALLY DESOM.

BY ADV. SRI.M.NARENDRA KUMAR
SRI.R.SUDHIR

RESPONDENTS:
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1. MEPPAYYUR CO-OPERATIVE HOUSING SOCIETY,
BY ITS SECRETARY, MEPPAYYUR.

2. SALINI, MEPPAYYUR AMSOM,
CHANGARAMVALLY DESOM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISNAN, J.

W.P.(C).No. 23518/2007

Dated this 2nd day of August, 2007

JUDGMENT

This writ petition is filed seeking to set aside the order of the Subordinate Judge, Koyilandy, in E.A.176/2007 in E.P.57/2005 in A.R.C.160/2000, by the decree holder to proclaim and sell the decree schedule property.

2. The judgment debtor in this case namely the writ petitioner, had approached the Court more than thrice for reliefs. Ultimately in a review petition, this Court directed the writ petitioner to deposit a sum of Rupees One Lakh and pay the balance amount in ten monthly equal instalments. In pursuance of the order, the judgment debtor deposited a sum of Rupees Seventy Thousand. But he did not deposit the balance amount of Rupees Thirty Thousand nor did he pay the instalments as directed by this Court. Again, he came in with another review application. This Court again considered it very leniently and directed him to deposit an amount of Rupees

Thirty Thousand and first instalment due in April by a definite date and that has also not been paid admittedly. So the benefits conferred upon the writ petitioner by this Court had not been used by the writ petitioner and there is sufficient clause in the order itself that in case by default, the decree holder is entitled to proceed against the property. I find there is no need to give further indulgance to the writ petition and therefore, the order passed by the Court below is in order and writ petition is dismissed.

3. However since it is only ordered to be sold after proclamation if he gets notice under Order 21 Rule 66, he is entitled to raise the contention which he wants, in support of the sale of the property.

M.N.KRISHNAN,
JUDGE

mrcs